

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

WILLIE L CAMPBELL,

Plaintiff,

vs.

CITY OF OMAHA, TODD R.
SCHADERER, IN HIS OFFICIAL
CAPACITY, SERGEANT S. W.
VOLENEC, IN HIS OFFICIAL
CAPACITY, AND OFFICERS TIMOTHY
BAUMAN, JORDAN BRANDT, JUSTIN
GEORGIUS, NICHOLAS MEADE, AND
DAVID PRESTON, INDIVIDUALLY AND
IN THEIR OFFICIAL CAPACITIES,

Defendants.

CASE NO.: 8:15 cv 0099

COMPLAINT

Plaintiff, Willie L Campbell, by and through his attorney Brendan M. Kelly, alleges and states as follows:

I. Preliminary Statement

1. Plaintiff brings this action to recover monetary and affirmative relief based upon the violations under Title VII of the Civil Rights Act of 1964, as amended by 42 U.S.C. Section 2000 et seq., 42 U.S.C. Section 1981, and any other appropriate rules and regulations, statutes, and ordinances, governing Defendants City of Omaha, Todd R. Schmaderer, Sergeant S. W. Volenec, and Officers Timothy Bauman, Jordan Brandt, Justin Georgius, Nicholas Meade, and David Preston (hereinafter referred to as "Officers"). Further, Plaintiff brings this action to recover monetary damages and affirmative relief based upon state law claims against Defendant Officers under this Court's supplemental jurisdiction.

II. Jurisdiction and Venue

2. This court has jurisdiction over this action pursuant to 42 U.S.C. Sections 1983 and 1988, 28 U.S.C. Sections 1331, 1343, 1337, and 1367, and Neb. Rev. Stat. Section 25-219. This court has jurisdiction over all state law claims brought in this action pursuant to 28 U.S.C. Section 1367.
3. This action properly lies in the United States District Court for the District of Nebraska, pursuant to 28 U.S.C. Section 1391(b), because the unlawful conduct occurred within Douglas County in the State of Nebraska.
4. This court has the power to issue declaratory relief pursuant to 28 U.S.C. Sections 2201 and 2202.

III. Parties

5. Plaintiff. Willie L. Campbell, is a domiciliary of the State of Nebraska, residing in Sarpy County, Nebraska.
6. The City of Omaha is a municipal corporation within the State of Nebraska and employer of Defendants Officers.
7. At all times pertinent to this complaint, Defendants Officers, were and are “employees” of the City of Omaha working in the Omaha Police Department.
8. At all times pertinent to this complaint, Defendant Todd R. Schmaderer, was and is the Chief of Police of the Omaha Police Department.
9. At all times pertinent to this complaint, Defendant Sergeant S. W. Volenec, was and is an “employee” of the City of Omaha working in the Omaha Police Department working as an Internal Affairs Investigator.

IV. Background Facts

10. On or about March 20, 2013, Defendants inflicted physical injuries on Plaintiff. In response to a noise complaint at another’s apartment, Defendants absent any authority, broke and entered into an apartment where the Plaintiff was located. They hauled Plaintiff out of the apartment and slammed Plaintiff onto the floor outside the apartment. Defendants used their knees and boots on Plaintiff’s neck, sides, back, knees, and feet to inflict bruises on Plaintiff. Plaintiff was then

required to stay on the ground for 15 minutes to 20 minutes before being thrown into a chair. Plaintiff had already been handcuffed. No one at the apartment was ticketed, or arrested, and no evidence of any criminal activity was ever uncovered.

11. Due to Defendants actions, Plaintiff was treated in the emergency room and x-rays, along with medical care was provided. Although Omaha police officers spoke with Plaintiff while he was being treated in the emergency room, they refused and failed to make a report and/or to document the assault. On or about March 31, 2013, Plaintiff filed a formal Citizen's Complaint with the Omaha Police Department Internal Affairs Unit with Defendant Sergeant S. W. Volenec which resulted in a letter dated November 19, 2013 signed by Defendant Todd R. Schmaderer stating that Plaintiff's allegations were not sustained.
12. Defendants committed assault and battery with the intent to inflict unnecessary harm upon Plaintiff and such use of excessive force caused physical and mental injuries to Plaintiff. Plaintiff is an African American, United States Citizen.
13. Plaintiff alleges that his injuries inflicted by Defendants were in violation of his rights under the Fourth and Fourteenth Amendments of the United States Constitution to protect from unreasonable search and seizure. The unlawful search and seizure on the Plaintiff's was made under color of authority by Defendants, acting within their official capacity as uniformed officers for the Omaha. Police Department.
14. Plaintiff further alleges that the violation of his constitutional rights was caused by implementation of custom, policy or official act of Defendants, and the failure of Defendants City of Omaha, Todd R. Schmaderer, and Sergeant S. W. Volenec to properly train or supervise its police officers.
15. The wrongful acts of Defendants complained herein were undertaken maliciously, in bad faith, negligently and including, but not limited to, intentionally unlawfully searching and seizing Plaintiff with excessive force when Defendants knew or should have known that there were no grounds for such force; the failure of Defendants City of Omaha, Todd R. Schmaderer, and Sergeant S. W. Volenec

to properly and adequately train or supervise its police officers in investigation and arrest techniques and procedures.

16. Due to the injuries suffered by Defendants, Plaintiff incurred medical expenses, legal expenses, lost wages, and other incidental expenses.

17. Plaintiff, as a results of the assault and battery, was subjected to deprivation of his rights, privileges, and immunities secured by the Unites States Constitution and laws of the United States. Also due to such, Plaintiff sustained deprivations of his personal liberty, invasions of his privacy, and violation of his civil liberty rights, and has suffered and will continue to suffer from psychological harm, mental distress, humiliation, embarrassment, fear, and defamation of his character and reputation.

18. The acts and conducts of Defendants hereinbefore alleged constitute assault and battery, false imprisonment, negligence, gross negligence, prima facie tort under the laws of the State of Nebraska. This Court has pendent jurisdiction to hear and adjudicate these claims.

WHEREFORE, as consequence of the assault and battery and violation of Plaintiff's Federal Civil Rights pursuant to 42 USC Section 1983, Plaintiff seeks judgment against Defendants, and each of them for:

- a. Declaring that Defendants violated the aforementioned statues and laws;
- b. Compensatory damages;
- c. Punitive damages;
- d. Costs and attorney fees;
- e. For such other and further relief as may be just and proper.

V. Demand for Jury Trial

Pursuant to Federal Rule of Civil Procedure Rule 38(b), Plaintiff hereby demands trial by jury in this action for all issues so triable.

WHEREFORE, as a result of the unlawful conduct and actions of Defendants herein alleged, Plaintiff demands judgment.

Respectfully submitted:

By: /s/ Brendan M. Kelly
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